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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF: TORTURE AND DETENTION, AND RELIGIOUS INTOLERANCE

Written statement*/ submitted by the International Indian Treaty Council, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 January 2000]

*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

The continued Arbitrary Detention of Leonard Peltier by the United States has been raised for decades in this Commission by the International Indian Treaty Council and many other Non-Governmental Organizations, respected dignitaries, Nobel laureates, religious leaders, governmental entities and elected officials. In April, 1999 Amnesty International recognized that the only feasible option in this case of grave injustice is Mr. Peltier's immediate and unconditional release.

There is no longer doubt that Mr. Peltier, an Ojibway/Lakota Indian, was extradited from Canada and convicted of murder in the United States based upon perjured, falsified and fabricated evidence.

Leonard Peltier was an active member of the American Indian Movement (AIM). AIM activism drew national and international attention to continued violations of Indigenous treaties, particularly the Fort Laramie Treaty between the Lakota Nation and the United States. These violations are documented by Mr. Miguel Alfonso Martinez, the UN Special Rapporteur on Treaties, Agreements and Other Constructive Arrangements between states and indigenous populations. In his latest submission to this Commission, Mr. Martinez documents that the US government's own Indian Clams Commission and Federal Courts admitted that the taking of the Black Hills by the US government blatantly violates the 1868 Fort Laramie Treaty. He quotes the Claims Commission, that, "A more ripe and rank case of dishonorable dealing will never, in all probability be found in our history." E/CN.4/Sub.2/1999/20, paragraph 276.

What began as a peaceful occupation by members of the Lakota Nation and AIM at Wounded Knee, Pine Ridge Lakota Reservation, South Dakota in February 1973 quickly escalated into massive governmental repression, characterized by many as a "reign of terror". The US Federal Bureau of Investigation (FBI) armed and encouraged local paramilitary repression, led intensive local surveillance, infiltration, massive arrests and arbitrary detentions and harassment of AIM membership. It has been documented that sixty-four people were assassinated between 1973 and 1975, mainly AIM members, their supporters and families, children and elders.

The number of actual murders is estimated at close to 200. These deaths were never adequately investigated and no one has ever been charged or prosecuted for these crimes.

In the midst of this climate of fear and repression, on June 26, 1974, two FBI agents and a young Indian man, Mr. Joe Stuntz, were killed during an exchange of gunfire, which began when the armed agents forcefully entered the grounds of a local family's residence.

The US government has never presented credible testimony or forensic evidence to link Mr. Peltier to the FBI agents' deaths, and U.S. officials have admitted as much in federal court. Two other defendants, tried separately, were found innocent on grounds of self-defense. Yet Mr. Peltier remains in federal prison to this day, having served more than 24 years of two consecutive life sentences.

The UN Special Rapporteur on the Question of Torture, Sir Nigel S. Rodley reported to this Commission at its Fifty-fifth Session, an urgent appeal on behalf of Leonard Peltier addressing the inhumane treatment he has continued to receive at the hands of United States prison officials at both Leavenworth and Marion Federal Prisons (E/CN.4/1991/61, para. 751.)

His report describes repeated solitary confinement, deprivation of human contact, beatings and a 20-year denial of much needed medical treatment. Mr. Peltier was finally allowed medical treatment in 1996 for his jaw, which was broken by a beating. After an operation which failed to correct his conditions, and resulted in a 14-hour coma in intensive care, Mr. Peltier was detained in a small segregated cell infested with insects. By the prison surgeon's own admission, prison medical personnel were not capable of treating Mr. Peltier's condition. Mr. Peltier's requests that he be treated by private doctors recommended to him have been repeatedly refused. His jaw is frozen and he is reported in unremitting pain. Special Rapporteur Rodley's inquires to the United States have gone unanswered.

In 1997 IITC filed a communication on behalf of Leonard Peltier with the UN Working Group on Arbitrary Detentions, addressing Mr. Peltier's unjust extradition, trial and conviction, requesting that the Working Group's mandate be exercised in his case. The Working Group has yet to report to the Commission on the status of this investigation.

The IITC urgently call upon the Rapporteur on the Question of Torture and the Working Group on Arbitrary Detentions to visit Mr. Peltier at his place of detention, and call upon the United States to take all measures to facilitate this visit. We urge the United States to respond to Mr. Rodley's inquiries and to heed the words of Federal Judge Haney of the 8th Circuit Court of the United States, with reference to the Leonard Peltier case, that "[The United States] as a nation must treat Native Americans more fairly."

Addressing agenda item 11(e) the International Indian Treaty Council again points out that the same human rights which the United States vehemently defends for Peoples living in other countries are routinely denied for Indigenous Peoples whose ancestral lands are now located within the US borders In his report presented to the 55th Session of the Commission on his visit to the United States, Mr. Abdelfattah Amor, United Nations Special Rapporteur on Religious Intolerance, found that Native American complaints of religious intolerance in the United States "reflect both a real lack of understanding and consideration and an indifference and even hostility on the part of various officials and other parties involved.... with regard to the values and beliefs of the original inhabitants of the United States". E/CN.4/1999/58/Add.1 (Paragraph 62).

In January of this year, the IITC presented Mr. Amor with updates on continued violations pertaining to two issues addressed in his report, the relocation of the Dineh (Navajo) of Black Mesa Arizona from their homelands and the denial of religious freedom for Indigenous Prisoners within the federal and state penal systems. We regret to report to the Rappoprteur and the Commission that such violations have continued in the year since the report was presented.

We remind the Commission of Mr. Amor's finding, that the observance of international law on freedom of religion and its manifestations with regard to Black Mesa has not been heeded. (Paragraph 83). Not only have claims of the Dineh not been taken into account on an equal footing with the economic interests involved (paragraph 82), but the pressures upon the traditional Dineh, many old and infirm, to relocate against their will continue without abatement.

The IITC has been informed that these elders resolve to remain on their homelands in order to continue protecting them through their daily prayers and ceremonies. They will continue to practice their traditional way of life based upon their sacred and inalienable relationship to this land, despite the current February 1, 2000 deadline set for their removal. We strongly urge the Commission to closely monitor this ongoing crisis situation.

The Rapporteur also recommend in his report (paragraph 84) that the end of the practice of forced hair-cutting of Indian prisoners become general policy in United States prisons. However, this practice also has continued unabated. The State of California, for example, continues to enforce this practice as a policy, and continues to punish prisoners for their refusal to submit to the cutting of their hair.

The case of Anthony Alto, a Native American Prisoner who was re-classified and placed in solitary confinement for his refusal to cut his hair, was raised at IITC 's annual conference which took place in South Dakota USA in June 1999. We undertook an inquiry of his case to the Governor of California, who referred our inquiry to the California Department of Corrections.

The response included prison regulations on Religious Programs, none of which address the so-called "grooming regulation", i.e., forced haircutting (NCDR 97/12). The response fails to include the text of this regulation but also does not include the policy under which it is enforced.

The IITC believes that Mr. Amor's report, which recognized the essential relationship between Indigenous Peoples' spirituality, their lands, and their ability to maintain their traditional religious and cultural practices represented a major step forward in the universal application of this most fundamental human right. We urge the Rapporteur on Religious Intolerance and the Commission itself to continue to provide oversight regarding violations of the religious freedoms of Indigenous Peoples in the US and around the world, and to take every opportunity to advance the international community's understanding of Indigenous Peoples' perspectives, experiences, rights and responsibilities in this regard.